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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/590,586	08/24/2006	Yukari Hirata	BY0040P	8509				
210 MERCK P O BOX 2000 RAHWAY, NJ 07065-0907	7590 07/14/2010		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">CHANDRAKUMAR, NIZAL S</td></tr></table>		EXAMINER		CHANDRAKUMAR, NIZAL S	
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			<table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>07/14/2010</td><td>PAPER</td></tr></table>	MAIL DATE	DELIVERY MODE	07/14/2010	PAPER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,586	Applicant(s) HIRATA ET AL.	
	Examiner NIZAL S. CHANDRAKUMAR	Art Unit 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41-44, 46-49 is/are allowed.
- 6) ☒ Claim(s) 36,39,40 and 45 is/are rejected.
- 7) ☒ Claim(s) 37 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicants response filed 6/24/2010 is acknowledged.

Response to Remarks

Claim Rejections - 35 USC § 102 and 35 USC § 103

Previously presented rejections are rendered moot in view of cancellation of claims.

Claims 36-49 are pending and are new.

New Rejections:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

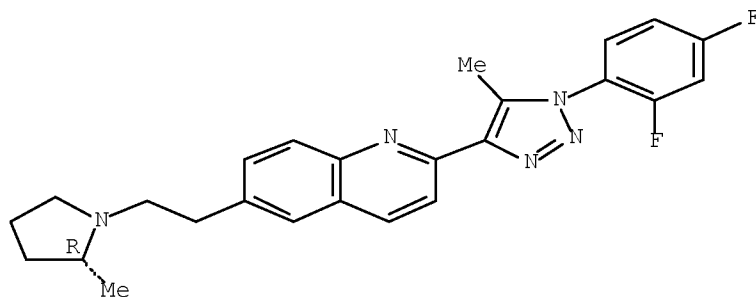
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 36, 40, 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Altenbach et al. US 20050256118.

Altenbach et al. teach RN 869467-84-5

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Corresponding to compound of instant formula I wherein

R1 is isoquinolinyl, alpha being

di-lower alkylamino group (two di-lower alkyl groups may bound each other and form a 5- to 7- membered aliphatic hetero ring together with nitrogen atom,

R2 is lower alkyl group

R3 is phenyl which has two halo substitution

Note: WO/2005/085214 of PCT/JP05/04379 03/07/2005 corresponding to the instant application is published in Japanese (and so is the priority application JAPAN 2004-063243 03/05/2004).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36, 39, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 36, numbered page 3, line two, 'aryl group dilower alkylamino group'. chemical structure of this group is unclear.

Suggestion: a comma between aryl group and dilower alkylamino group
Likewise, page 3, line 5: "oxo" group on a aryl (benzene) would render the ring a 'quinonoid' structure which in turn would render the structure of the N containing ring of R1 vague and indefinite.

Likewise, page 3, line 11 What is "A ring" ?

Claim 39, a parenthesis is missing

Applicant is encouraged to check for typographical errors noted above.

Allowable Subject Matter

Claims 37, 38 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 41-44, 46-49 are allowable.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIZAL S. CHANDRAKUMAR whose telephone number is (571)272-6202. The examiner can normally be reached on 8.30 AM - 4.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571 0272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nizal S Chandrakumar/
Examiner, Art Unit 1625

/D. Margaret Seaman/

Primary Examiner, Art Unit 1625